

**CITY OF LEWISTON
PLANNING BOARD MEETING
Minutes of February 25, 1997**

ROLL CALL

The meeting was called to order at 6:00 P.M.

Members Present: H. Milliken, H. Skelton, L. Zidle, D. Jacques, D. Theriault

Staff Present: J. Lysen, G. Dycio, D. Ouellette, E. Friedman

Also Present were: J. Andrews, K. St.Amand, Councilor Joyce Bilodeau

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PRESENTATION FOR FUNDING REQUESTS FY98 (JULY 1, 1997 - June 30, 1998).

Tri-County Mental Health - Greg Shay and Garret Golding asked for \$8,500. Mr. Shay reported that they have 1,900 active cases with 60% of the cases Lewiston residents. He reported that they unfortunately have a twenty-week waiting period because of the reduction in support. Their focus is on the entire family, not just the children. They have had thirteen positions cut. Emergencies are seen immediately - an average of 10-15 per week (teens attempting suicide and other crisis situations). D. Theriault asked if Auburn was helping. Mr. Shaw said that Auburn gave them \$4,600 out of their own funds last year. Mr. Skelton questioned why the intake was increasing. Mr. Shay responded that early intervention was key. Mr. Golding also said that St. Mary's opened a separate unit for kids who will harm themselves or others.

Androscoggin Head Start - Childhood Enrichment Program - Present were Estelle Rubinstein, staff person Dot Dubois, parents Kelly Pelletier and Jamie Parent. This program is seeking \$75,000. Ms. Rubinstein explained that her school presently has a classroom that empties out at 12:30 and was looking for funding to staff that classroom for an additional four hours per day. The classroom already has all of the material and this would accommodate fifteen children. She stated that there was a 60% savings to wrap around an existing program. Their agency provides a sliding fee scale for subsidized child care. Mrs. Pelletier and Ms. Parent both said that they use the agency and are very pleased with the services provided. Both stated that if it had not been for this agency, that they probably would have remained on welfare. She said that this program encourages parents to go to work and get off welfare. Ms. Parent said that because of this program she was able to go to college and still work part time. Ms. Rubinstein said that there is a waiting list of 35-40 families. In this program, parents have two months to find a job or his/her child loses their slot in the program. Mr. Theriault said that he had seen the program in action and that it was a quality program.

Androscoggin Home Health - Present was Arthur Wing. His agency is seeking \$34,239 and said that the program had been in operation for ten years and was Medicare certified. It provides service in patients' homes consisting of skilled nursing, physical therapy, speech therapy, etc. In 1996, their agency had 87,000 home visits. 264 Lewiston residents received 2,200 visits not covered by insurance -

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\$179,000 worth of services provided. Mr. Skelton asked the average age that the agency services. Mr. Wing said that it served young families, 65 +, and a great deal 85 and over. The agency uses a sliding fee scale. Mr. Skelton asked what the percentage of population under 18 the agency serviced. Mr. Wing answered about 5%.

Area IV Mental Health - Common ties Mental Coalition - Present was Craig Philips. He said that their agency provides hot meals every Friday evening at the 100 Pine Street Social Center. He has asked for \$2,000 to be totally used to purchase food for the Meals Skills Program. It is opened 365 days per year from 11AM-7PM and provides a safe place for people with mental health problems to get together to help themselves. Last year they served 804 meals to low income people - 80% were Lewiston residents. There were 11,700 visits last year, or approximately 40 people per day. The Friday meal is their focal point. The meals are bought, planned and prepared by the people. They also do holiday meals. This program teaches these people different cooking skills. It is also credited for helping people stay out of hospitals. He has heard some people say that it was the only hot meal that they got all week. Two members of the "club" attended the presentations - Ron and Jeannine - both said the club was very helpful to them and urged the Board to fund the club another year. Mr. Skelton asked if the agency was affiliated in any way with the State. Mr. Phillips reported that it was a private non-profit organization. Mr. Theriault asked Mr. Philips to explain the information survey regarding services that this organization conducts.

Abused Women's Advocacy Project (AWAP) - Present were Heidi Randall and Darla Hesketh. Their agency is asking for \$24,000 for a part time staff person. They feel the key to their program is with the courts. In 1995-1996 they served 591 clients, 352 were from Lewiston. The agency helps women find attorneys, makes referrals to other agencies and even go to court with the client at their final hearing for moral support. Ms. Randall feels that police arrest is the greatest deterrent for abuse and want to make the legal system more accessible. There has been a 29% increase of women who seek help due mostly through word of mouth by former clients and because women are more willing to seek help today. Because of this, there is a great need for at least another part time staff person in order to respond in a speedy fashion to these women's needs. As of now, the agency has only one full time court advocate and two volunteers. Volunteer turn-around time is great because of the great number of cases they have to handle.

Creative Photographic Art Center - J. Michael Patry and Tom Foley were present. Along with Mr. Patry and Mr. Foley were several of his students. Mr. Patry said that his program is geared to youth at risk. He is asking for \$70,000 and realizes that not all of it can come from CDBG but would like any help the City can give him. He would like to do a four-week project this summer with kids at Kennedy Park. He is also doing a government program - developing the mill, taking photographs, having the kids write a composition about their subjects. He said it teaches kids how to interact together, learn math, writing skills, etc. Mr. Theriault asked if any of the funds were going to subsidize rent arrearage. Mr. Patry said no. He said all monies go to photographic supplies, film, paper, etc. He said that this year he

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will have forty college students enrolled in one of his programs. He has several instructors who do not receive monetary compensation, he also spends some of his own money on his programs.

Historic Preservation Review Board - Presented by James J. Lysen. This agency is in need of \$2,000 for a historic preservation manual. As it is now, Lewiston is using a manual designed for Portland. The money would be used for printing, photos and a slide show presentation scheduled for the second week of May. The manual would be used as a guideline for the Review Board. Mr. Theriault asked how this would involve staff. Mr. Lysen said staff would manage the project, do some of the research, mapping, and secretarial work.

**REGULAR SCHEDULED PLANNING BOARD MEETING
MEETING CALLED TO ORDER AT 7:40 PM**

READING OF THE MINUTES OF FEBRUARY 11, 1997.

MOTION: by H. Skelton, seconded by L. Zidle to accept the minutes of the February 11, 1997.

VOTE: Passed 4-0-1 (D. Theriault abstained).

CORRESPONDENCE

- 1) Lewiston Church of the Nazarene, February 24, 1997 Plan Amendments & Compliance Schedule.
- 2) Map from George Dycio regarding canopies for St. Mary's Hospital.

MOTION: by H. Skelton, seconded by D. Jacques to accept the above correspondence and place on file.

VOTE: Passed 5-0.

PUBLIC HEARINGS

Proposed Amendment to the Zoning and Land Use Code

A proposed amendment to the Zoning and Land Use Code regarding the placement of awnings and canopies in the Institutional Office (IO) District where awnings and canopies may extend into a front yard area to the extent necessary to provide shelter from the elements, but in no case may they be closer than two (2) feet from the property line was sent to the Planning Board.

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The Planning Staff reviewed the proposed amendment and is in favor of the amendment because it clarifies conflicting language within the Zoning and Land Use Code. However, upon further review Staff has some concern that the amendment may not allow for all possibilities. Staff suggests that the amendment include, in addition to front yards, side and rear yards. Staff asks that the Planning Board consider the addition of side and rear yards to the amendment.

Therefore, the Planning Staff recommended that the Board receive input from the public and Staff at the Public Hearing, review the proposed amendment and consider the changes that Staff suggested, amend the proposed amendment should the Board find it necessary, and send a recommendation to the City Council accordingly.

J. Lysen said that this awning will cover the drive-thru area. Mr. Milliken asked whether there were any utilities that interfered. Mr. Lysen answered that there were none. After discussion whether side and rear yards should be added to the amendment, Mr. Skelton suggested the words "side and rear" be added after the word "front" so that it reads "...front, side, and rear yard areas to the extent necessary..." and to also add the words "utilities or with the" after "interfere with" so that it reads, "...and shall in no way interfere with utilities or with the convenient and safe use of the sidewalk..."

MOTION: by H. Skelton, seconded by D. Theriault to send a favorable recommendation to the City Council to amend Appendix A of the Code of Ordinances as set up in the proposed amendment with the above changes.

VOTE: Passed 5-0.

REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING

Lewiston Church of the Nazarene - Minor Amendment

Staff met with the church and Mrs. Boucher during the week. Both came to an agreement which is set forth in writing and was accepted under Correspondence by the Planning Board. They agreed to (1) a 15 foot paved apron off Main Street to be completed by April 30, 1997; (2) planting of Canadian Hemlock buffer to be completed by May 31, 1997; and (3) landscaping and seeding of the lawn to be completed by July 31, 1997. Mr. Milliken asked if Mrs. Boucher was satisfied with this agreement, she said she was but would have liked a performance guarantee. J. Lysen said that the Church has put forth a good faith effort to comply and Code Enforcement will monitor. Mr. Theriault asked who was in charge of the project, if it was the church or the engineer. Rev. Gates took full responsibility for the project, that there were plans drawn, then amendments made to the plan and those were the plans given to the contractor. He admitted that he did not return to the City with the modifications.

Mr. Milliken asked if the 20 foot turn-around requested by the fire department had been addressed. G. Dycio said that the changes will be made. Mr. Theriault asked that the Planning Board Chairman's name be added to the written agreement in the last paragraph, first sentence so that it reads "To better

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communicate progress with these three projects, the Lewiston Church of the Nazarene will provide letters of communication to the following people: Gil Arsenault, Jim Lysen, Scott Lynch, Mrs. Constance Boucher, and Planning Board Chairman Harry Milliken."

MOTION: by H. Skelton, seconded by D. Jacques that the requested waivers of submission requirements by Rev. Gates on behalf of the Lewiston Church of the Nazarene be granted because of the size of the project and the circumstances of the site such requirements should not be applicable or would be an unnecessary burden upon the applicant and that such waivers do not adversely affect the abutting landowners or the general health, safety, and welfare of the City.

VOTE: Passed 5-0.

MOTION: by H. Skelton, seconded by D. Theriault that the Board find that the application of Rev. Gates on behalf of the Lewiston Church of the Nazarene meets all of the approval criteria under Article XIII, Sec. 4 and further that the Board grants final approval to the project with the conditions outlined in the agreement dated February 24, 1997 and Mr. Milliken's name added to the list of people to receive communications from the Church regarding this project.

VOTE: Passed 5-0.

OTHER BUSINESS

A. Discussion on Day Care

Mr. Lysen read his February 20th memo to the Planning Board which outlined 9 different concerns and options regarding day care facilities. He stated that the sixth issue was what seemed to be the one causing the most problems ("in conjunction with a permitted use"). Mr. Lysen said that there should be an amendment to the code. D. Theriault raised the issue about how many day cares can a neighborhood handle. Mr. Lysen mentioned grandfathering existing day cares. Jamie Bolduc said that four out of her five day cares are licensed by the state as a "small facility." Mr. Theriault had questions about whose name appears on the state license and J. Bolduc said that the primary care giver's name appears on the license, but she is the one who signs for them. Mr. Lysen said that at the Board of Appeals it was determined that someone had to live at the day care facility. **Marie Levesque**, 37 Hogan Road, Lewiston said that she purchased property on Hogan Street and wanted to open a nursery in the area, but was told she couldn't but that she could run a day care. She didn't understand what the difference was between the two and thought both of them as businesses. Mr. Skelton asked her if she had checked the zoning in the area before she purchased the property. Ms. Levesque said she had not. Mr. Skelton told her that the Planning Board was not looking into changing zones at this time. **Councilor Joyce Bilodeau** said that one of her constituents is in the UE zone and cannot open a day care because she is not zoned for it. Some cities allow day care facilities in the IO district and questioned the foresight of Lewiston for not

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allowing that. Mr. Theriault said that he felt neighborhood protection is vital and Councilor Bilodeau agreed, however, she said that day care facilities are usually near where the parent works or where the children go to school. However, she said that opening up day cares in IO or non-residential zones is her primary concern. Mr. Skelton thought that the proposed code amendment should be reviewed by the Planning Board before it goes to a public hearing because of its complexity. Mr. Milliken said that he'd like the Planning Board to review the current licensing, review actual zoning district (owner-occupant issue). Mr. Skelton said that grandfathering should be addressed. Mr. Lysen asked about notification of neighbors. Mr. Theriault and Mr. Skelton then had a discussion about notification of neighbors when it was agreed that this topic should be put on the next discussion in the day care workshop under other business on April 8th.

B. City Council Request for Promenade Mall Conditional Rezoning Agreement.

George Dycio said that he Planning Staff had received a memo from the City Clerk dated February 21, 1997 which stated: "The City Council at its meeting of February 18, 1997, voted to request a recommendation from the Planning Board on an amendment to the Promenade Mall conditional Rezoning Agreement to allow for continued use of a portion of the upper level for 'Wholesale sales, warehousing and distribution facilities' beyond the April 30, 1997, date established within the agreement." Mr. Theriault asked Councilor Bilodeau if she was in favor of this request and she said yes if certain standards were met and certain things addressed. Ms. Bilodeau said she had a meeting with residents of Summit Avenue and wants their concerns addressed. She asked the Planning Board to schedule something and look this over. This would give her a specific date and she could get back to the residents with a public hearing date. The extension date will be made clear after city staff meets with the mall developers on Wednesday.

Mr. Theriault said that the Rosenthal had initially said April 30th was their final date and they were sure that they did not need more time. Ms. Bilodeau said that she had contacted the residents back in August and was told that the noise problems were continuing. She was under the impression that the complaints were mitigated. LSST put in two dock levelers, enclosed the area, put in seals around the docks and received no complaints until after the cold snap-January. She said that LSST put in one hydraulic dock leveler and one air bag dock leveler. The air bag leveler is more quiet. She found the hydraulic leveler to be noisy.

Mr. Theriault asked what the neighbors wanted. Ms. Bilodeau said that what he was asking was for her to make a presentation and that would be better for a public hearing where all the neighbors could be present. Mr. Theriault said that the Planning Board has gone above and beyond regarding the Rosentals' request and wants the April 30th deadline adhered to. He said they were non-conforming to begin with.

Robert Lambert, 94 Summit Avenue, Lewiston said that he was going before the City Council next Tuesday to ask them to rescind the April 30th deadline. He wants it stopped now. He said that

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agreement was given on the condition that the noise would cease, but the noise has not ceased. He feels that the Rosenthal may want to make this warehousing permanent. He said that Mr. Rosenthal has "sneaked" the warehousing into this area that did not allow warehousing and then went before the Board to ask permission to have it there. The loading docks are used in the middle of the night, two trucks at a time with two waiting. There is a problem with smell from the trucks that rises to their neighborhood. He also said that Mr. Rosenthal has only brought one new business to the mall. Mr. Lambert feels that if warehousing is to continue there, that no new businesses would come to the mall. Mr. Theriault said that the Board allowed the warehousing to facilitate a bad situation, it was only a temporary solution. Mr. Lambert was told that he needed to be put on the City Council agenda to be heard. He said that the Council had told him if the noise continued that he was to let them know. (The Board reminded him that they had told him the same). Mr. Milliken asked if the dock leveler was working last fall. Mr. Lambert said no, they never worked.

Larry Fox, 106 Summit Avenue, Lewiston said that the dock levelers and pads haven't helped and does not want the Rosenthals to continue. George Dycio said that staff discussed hours of operations to alleviate the problem. Mr. Fox said he did not want this because he did not want an extension beyond April 30th.

H. Milliken asked what the Council was looking for. Ms. Bilodeau said for some sort of review and workshop. Mr. Theriault said the note said it requested a recommendation, but Joyce Bilodeau said that the Board had nothing to review to recommend. Mr. Theriault said that he had the original agreement and was willing at this time to make a recommendation to the City Council to enforce the April 30th deadline date. Mr. Theriault said that he wanted to keep the original agreement and wanted to know what had changed to make the Rosenthals ask for an extension. The noise level was still there, and the warehousing is in non-compliance, that the Board had done them a favor in granting their original request in the first place.

Mr. Lysen said that the Rosenthals were not here this evening to make their presentation and had a concern with due process. Mr. Lysen reminded the Board that contracts could be amended and that the Rosenthals had a right to ask the City Council to amend the original agreement. Mr. Milliken asked why the City Council was asking for a recommendation tonight. Mr. Lysen said that the memo was phrased badly. Mr. Lysen said that this was basically an initiation of the amendment process. Mr. Milliken said he agreed with Mr. Theriault that if the City Council was looking for a recommendation then the Board should act on it tonight. Mr. Lysen said that this memo was to initiate the re-opening of this issue and have the Board send a recommendation. Mr. Theriault said the memo states that the Planning Board should send a recommendation and was ready this evening to send an answer tonight.

Mr. Lysen asked if the issue could be resolved with further buffering, enclosures, etc. Mr. Milliken again said that the way this memo is written that the Planning Board should take action. Mr. Theriault asked Councilor Bilodeau what the Council voted on. Ms. Bilodeau said they voted on a request to petition and extend the deadline. Mr. Theriault asked if the Rosenthals had given any reasons for this extension. Ms.

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Bilodeau said they had given several, but didn't feel it was her place to give the reasons before the Planning Board. Mr. Theriault said the memo was accepted in the packet by the Planning Board and they asked for a recommendation. Mr. Zidle asked if the Rosenthals had asked for this extension; J. Lysen said they had asked the City Council. Mr. Theriault said he would like to see the specific language that the Council had and said that as far as he was concerned, he felt he should answer the memo this evening. Mr. Lysen said that there was no action necessary, it was only for their information at this time. D. Jacques said that there would be no action taken at this time since it was under "Other Business" and wanted to see what the Rosenthals had to say. Mr. Milliken said that if it was tabled, it would come back on the agenda the next time. Mr. Lysen said that the Council will initiate the amendment properly on the 4th's meeting, will have language for the 11th's meeting and then the Planning Board can take action to schedule a public hearing or send a negative recommendation, but at least something will be in the process.

Mr. Milliken asked if Planning Staff was working on a set of rules for initiating something because there seems to be no rules on this procedure and this is another situation where the City Council initiates

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something, the tax payer is left paying the costs. This benefits one individual who should be the one initiating this action and pay the costs.

Mr. Theriault asked Mr. Lysen to ask the Rosenthals at tomorrow's meeting what their long-term intention was. Mr. Theriault said that he would like to review the tapes before the next meeting.

C. March 4, 1997 City Council meeting Regarding Comprehensive Plan Presentation.

It was decided that Mr. Milliken, Mr. Peters and Mr. Theriault would be present at the March 4, 1997 City Council meeting to formally present the Comprehensive Plan and to answer any of the Council's questions.

ADJOURNMENT

MOTION: by D. Theriault, seconded by D. Jacques to adjourn the meeting.

VOTE: Passed 5-0.

Meeting adjourned at 9:40 PM.

Respectfully submitted,

Denis Theriault
Planning Board Secretary

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